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IN THE

HAROLD B. WILLEY, Clerk

Supreme Court of the United States

OCTOBER TERM, 1953

No. 352

JULIA THOMPSON,
Petitioner,

vs.

RICHARD P. LAWSON,
As Deputy Commissioner of the United States
Bureau of Employees' Compensation, Sixth
Compensation District, et al.,
Respondents.

**ON PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
FIFTH CIRCUIT.**

PETITION FOR REHEARING

*Of Counsel:***MACFARLANE, FERGUSON,**
ALLISON & KELLY,
Tampa, Florida**GEORGE W. ERICKSEN,**
ARTHUR A. SIMPSON,
Attorneys for Respondents
Gulf Florida Terminal
Company, Incorporated, and
American Mutual Liability
Insurance Company,
P. O. Box 1531
Tampa, Florida

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PETITION FOR REHEARING

To the Honorable the Chief Justice and the Associate
Justices of the Supreme Court of the United States:

Respondents Gulf Florida Terminal Company, Incorporated, and American Mutual Liability Insurance Company respectfully petition this Honorable Court for rehearing on the Court's order dated November 16, 1953, granting petition for certiorari in the above entitled cause; and pray the Court that on rehearing and reconsideration, the petition for writ of certiorari be denied.



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GROUND FOR REHEARING AND RECONSIDERATION

**The order granting petition for
certiorari was filed before re-
spondents' brief in opposition
was due.**

The petition in this case was filed September 28, 1953. The petitioner did not serve these respondents within ten days from the filing of the petition as required by Rule 38 of this Court; but delayed service on these respondents until October 26, 1953, as shown by receipt of service filed with the Office of the Clerk. Thus under Rule 38, respondents' brief in opposition was not due until November 25, 1953,—or nine days subsequent to the order of this Court granting certiorari. The Clerk inadvertently scheduled the petition for conference prematurely.

This error deprived these respondents of their day in Court on the petition for writ of certiorari, and we respectfully suggest that they should be heard.

These respondents (as distinguished from the nominal respondent, Deputy Commissioner Richard P. Lawson, represented by the Solicitor General) have a substantial pecuniary interest in the outcome of this litigation. They are the real parties to the litigation, and we respectfully request the Court to now consider the objections to the grant of certiorari which they were prepared to timely file.

GROUND FOR DENYING THE WRIT

On October 16, 1953, the Acting Solicitor General filed in this Court on behalf of the respondent Lawson a Memorandum in which the government, in effect, joined in the petitioner's request for certiorari. This was never served on these respondents, and we did not know that it had been filed until we obtained a copy from the Clerk's Office subsequent to this Court's grant of certiorari.

In answer to that Memorandum, we might agree that there were conflicts between prior decisions of the Fifth Circuit and those of the other circuits cited; but we do not agree that the legal basis for any such conflict ruled, or should rule, the decision *in this case*.

In other words, we consider that the instant case would probably have been decided in the Ninth, Second and Third Circuits exactly as it was decided in the Fifth. And we hereto append our Brief in Opposition, as previously prepared for filing in this Court within the time allowed by Rule 38, demonstrating this proposition.

CONCLUSION

We respectfully submit that these respondents should be heard in opposition to the petition for certiorari; and that review by certiorari be reserved for some case in which the conflict in decisions recited by petitioner and respondent Lawson is more real than apparent. Consequently, these respondents respectfully pray that the order of this Court granting the petition for writ of certiorari to the Court of Appeals for the Fifth Circuit be reheard and vacated, and that the petition be denied.

Dated: November, 1953.

Respectfully submitted,

GEORGE W. ERICKSEN,
ARTHUR A. SIMPSON,

Attorneys for Respondents

Gulf Florida Terminal Company,
Incorporated, and American
Mutual Liability Insurance
Company

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Tampa, Florida

Of Counsel:
MACFARLANE, FERGUSON,
ALLISON & KELLY,
Tampa, Florida

CERTIFICATE

I, GEORGE W. ERICKSEN, of counsel for Gulf Florida Terminal Company, Incorporated, and American Mutual Liability Insurance Company, respondents herein, do hereby certify that the foregoing petition for rehearing of this cause is presented in good faith and not for delay.

GEORGE W. ERICKSEN,

Attorney for Respondents

Gulf Florida Terminal Company,
Incorporated, and American
Mutual Liability Insurance
Company.